

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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TOWAKI KOMATSU,

Plaintiff,
-against-

21 CIVIL 1838

JUDGMENT

UNITED STATES OF AMERICA, et al.,

Defendants.

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It is hereby **ORDERED, ADJUDGED AND DECREED:** That for the reasons stated in the Court's Memorandum & Order dated January 19, 2023, it is well established that a pro se complaint should not be dismissed "without granting leave to amend at least once when a liberal reading of the complaint gives any indication that a valid claim might be stated." Gomez v. USAA Fed. Sav. Bank, 171 F. 3d 794, 795 (2d Cir. 1999) (internal quotation removed). Here, Plaintiff has amended his pleadings not once, but twice. Furthermore, before Plaintiff filed the current complaint, the Court provided guidance regarding compliance with the Federal Rules of Civil Procedure and referred Plaintiff to the Pro Se Legal Assistance Project. See ECF No. 133. Despite this special solicitude, the Second Amended Complaint fails to state a single claim that can survive. In the Court's judgment, further amendment would be futile. See Cuoco v. Moritsugu, 222 F.3d 99, 112 (2d Cir. 2000) (explaining that when a complaint's flaws are "substantive," and "better pleading will not cure it," "repleading would . . . be futile," so leave to replead should not be permitted). Accordingly, Plaintiff's claims against the United States and its officials named in their official capacity are dismissed with prejudice for lack of subject matter jurisdiction. The remaining federal claims are also dismissed with prejudice for failure to state a claim, as are the claims against defendants City of New York, American Bar Association, and

New York University. The state tort law claims are dismissed without prejudice to replead in state court. Finally, Plaintiff's requests for injunctive and declaratory relief are denied.

Dated: New York, New York

January 19, 2023

RUBY J. KRAJICK

Clerk of Court

BY:

K. mango

Deputy Clerk